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**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF CALIFORNIA**

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| BLACKWATER LODGE AND TRAINING CENTER, INC., a Delaware Corporation dba BLACKWATER WORLDWIDE,<br><br>Plaintiff,<br><br>v.<br><br>KELLY BROUGHTON, in his capacity as Director of the Development Services Department of the City of San Diego; THE DEVELOPMENT SERVICES DEPARTMENT OF THE CITY OF SAN DIEGO, an agency of the City of San Diego; AFSANEH AHMADI, in her capacity as the Chief Building Official for the City of San Diego; THE CITY OF SAN DIEGO, a municipal entity; and DOES 1-20,<br><br>Defendants. | Case No. 08cv0926 H (WMC)<br><br>**DEFENDANTS' MOTION FOR LEAVE TO FILE MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS' JOINT MOTION TO DISMISS PLAINTIFF'S COMPLAINT IN EXCESS OF PAGE LIMITS**<br><br>Date: July 21, 2008<br>Time: 10:30 a.m.<br>Judge: Hon. Marilyn L. Huff<br>Court Room: 13 |

Defendants KELLY BROUGHTON, THE DEVELOPMENTAL SERVICES DEPARTMENT OF THE CITY OF SAN DIEGO, AFSANEH AHMADI, and THE CITY OF SAN DIEGO (collectively "City Defendants"), by and through the undersigned counsel, Deputy City Attorney George F. Schaefer, request leave of this Court to file a memorandum of points and authorities in support of the Defendants' motion to dismiss the Plaintiff's Complaint that exceeds the page limits by 2 pages. The following grounds support this motion:

1. On May 23, 2008 Plaintiff Blackwater filed a Complaint in this case for the following: 1) injunctive relief; 2) declaratory judgment; 3) violation of 42 U.S.C. § 1983 (procedural due process); 4) violation of 42 U.S.C. § 1983 (substantive due process); 5) dormant Commerce Clause; 6) violation of Cal. Const., Art. I, § 7(A) (procedural due process); and 6) violation of Cal. Const., Art. I, § 7(A) (equal protection).

2. Defendants have filed a motion to dismiss this Complaint that is 27 pages. Under the local rules, this exceeds the maximum 25-page limit by 2 pages.

3. Good cause exists to allow the Defendants' memorandum to exceed the page limit because of the number of legal claims, number of defendants, and complexity of the issues briefed which include, among other topics, the following: 1) ripeness of the Plaintiff's claims; 2) *Pullman* abstention; 3) *Younger* abstention; 4) Plaintiff's failure to state federal and state law claims; and 5) the Plaintiff's failure to comply with the California Government Claims Act.

Dated: June 26, 2008

MICHAEL J. AGUIRRE, City Attorney

By:

s/ Robert J. Walters

Robert J. Walters
Deputy City Attorney
E-mail: Rwalters@sandiego.gov

Attorneys for Defendants
THE CITY OF SAN DIEGO, DEVELOPMENT SERVICES DEPARTMENT OF THE CITY OF SAN DIEGO, KELLY BROUGHTON, and AFSANEH AHMADI

# UNITED STATES DISTRICT COURT

## SOUTHERN DISTRICT OF CALIFORNIA

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| BLACKWATER LODGE AND TRAINING CENTER, INC., a Delaware Corporation dba BLACKWATER WORLDWIDE,<br><br>Plaintiff,<br><br>v.<br><br>KELLY BROUGHTON, in his capacity as Director the Development Services Department of the City of San Diego; THE DEVELOPMENT SERVICES DEPARTMENT OF THE CITY OF SAN DIEGO, an agency of the City of San Diego; AFSANEH AHMADI, in her capacity as the Chief Building Official for the City of San Diego; THE CITY OF SAN DIEGO, a municipal entity; and DOES 1-20, inclusive,<br><br>Defendants. | Case No.: 08cv0926 H (WMC)<br><br>DECLARATION OF SERVICE |

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; and that I served the individuals on the service list attached hereto the following documents:

**DEFENDANTS' MOTION FOR LEAVE TO FILE MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS' JOINT MOTION TO DISMISS PLAINTIFF'S COMPLAINT IN EXCESS OF PAGE LIMITS**

in the following manner:

1) __ By personally serving the individual named by personally delivering the copies to the offices of the addressee.
Time of delivery: ___________ a.m./p.m.

2) __ By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing copies (first class mail, postage prepaid) to the person served at the place where the copies were left.

**3) X** **(BY E-FILING)**. I hereby certify that on **June 26, 2008,** I electronically filed the above-mentioned documents with the Clerk of the Court by using CM/ECF system which will send a notice of electronic filing, in accordance with the rules governing the electronic filing of documents in the United States District Court for the Southern District of California to the above-mentioned e-mail addresses.

John Nadolenco, Esq. jnadolenco@mayerbrown.com
Christopher Murphy, Esq. cmurphy@mayerbrown.com
***Co-Counsel for Plaintiff Blackwater Lodge and Training Center, Inc., dba Blackwater Worldwide***

Michael I. Neil, Esq. mneil@neildemott.com
***Co-Counsel for Plaintiff Blackwater Lodge and Training Center, Inc., dba Blackwater Worldwide***

Executed: **June 26, 2008** at San Diego, California.

Maria Cook
MARIA COOK